

**ZONING CHANGE REVIEW SHEET**C4  
1**CASE:** C14-2014-0159 / Penick Drive Rezoning**P.C. DATE:** February 24, 2015

February 10, 2015

January 27, 2015

January 13, 2015

December 09, 2014

November 12, 2014

October 21, 2014

**ADDRESS:** 5600-7522 Penick Drive Rezoning**DISTRICT AREA:** 3**AREA:** 0.646 acre (approx. 28,129 square feet.)**NEIGHBORHOOD PLAN AREA:** East Riverside Corridor  
(Pleasant Valley Neighborhood; East Riverside/Oltorf Neighborhood Plan Area)**OWNER:** Greif Yount Partnership (Bill Greif)**APPLICANT:** Thrower Design (Ron Thrower)**ZONING FROM:** SF-1-NP, single-family residence (large lot)-neighborhood plan**ZONING TO:** ERC, with a Subdistrict Designation of Neighborhood Mixed Use**SUMMARY STAFF RECOMMENDATION:**

To grant ERC-CO zoning, and to further Designate Neighborhood Mixed Use as the ERC subdistrict by amending the East Riverside Corridor Regulating Plan Figure 1-2, which is in turn reflected on Figure 1-7, base height without development bonus. The Conditional Overlay prohibits 1) vehicular access (except for emergency access) to Penick Drive because it is a local street with single family zoning, and 2) habitable structures.

**PLANNING COMMISSION RECOMMENDATION:**

To be considered February 24, 2015

February 10, 2015	Approved a Postponement request by Staff to February 24, 2015 [R. Hatfield; J. Nortey – 2 <sup>nd</sup> ] (7-0) A. Hernandez; L. Varghese – Absent
January 27, 2015	Approved a Postponement request by Staff to February 10, 2015 [J. Stevens; R. Hatfield – 2 <sup>nd</sup> ] (7-0) D. Chimenti; L. Varghese – Absent
January 13, 2015	Approved a Postponement request by Staff to January 27, 2015 [J. Stevens; R. Hatfield – 2 <sup>nd</sup> ] (8-0) S. Oliver – Absent
December 9, 2014	Postponed at the Request of the Applicant until January 13, 2015 (Consent Motion: R. Hatfield; Second: J. Stevens) 5-0-4 (Absent: A. Hernandez, J. Nortey, S. Oliver, and B. Roark).

C4  
1/2

November 12, 2014 Postponed to December 9, 2014 at the Request of the East Riverside/Oltorf Neighborhood Plan Contact Team and Penick Drive Residents (Consent Motion: R. Hatfield; Second: B. Roark) 8-0 (Absent: L. Varghese).

October 28, 2014 Postponed to November 12, 2014 at the Request of Staff Consent Motion: J. Stevens; Second: A. Hernandez) 8-0 (Absent: B. Roark).

**ISSUES:**

A conceptual site plan indicates that the rezoning area would be developed with an alley only serving proposed commercial development fronting Riverside Drive and also shows five residential lots facing Penick Drive. According to the Applicant, vehicular access to the alley would be taken from Country Club Drive and gated at Penick Drive. As long as the single family residential lots facing Penick Drive are part of the Applicant's site plan for the development on Riverside, and these lots are undeveloped at the time the Riverside development has commenced, then compatibility standards are not triggered. Nonetheless, SF-1-NP zoning does not allow for a commercial driveway/alley, hence a rezoning to ERC and subdistrict designation is necessary for the proposed development. The Applicant is also willing to prohibit construction of habitable buildings in the rezoning area, and this condition has been incorporated into the Staff recommendation.

The Applicant has been in discussions with the residents of Penick Drive and representatives of the East Riverside / Oltorf Combined (EROC) Neighborhood Plan Contact Team. On February 13, 2015, Staff met with the residents of Penick Drive and representatives of the EROC in order to discuss compatibility issues.

**PROCEDURAL NOTE:**

This application is being processed as a rezoning application (for purposes of notice, public hearings, petition rights, and so forth), similar to recent applications that amended the East Riverside Corridor Regulating Plan. The outcome, if the application is approved, would be both a zoning change (SF-1-NP to ERC) and an ERC Plan amendment (to designate the ERC Subdistrict on Figure 1-2, which is simultaneously reflected on Figure 1-7, Base Height). The application was filed on September 19, 2014.

On September 25, 2014, the City Council adopted a Resolution directing staff to initiate a code amendment that would establish additional procedures for an application proposing to amend the ERC Regulating Plan (Resolution No. 20140925-092). The additional processes are intended to align the process for amending the ERC Regulating Plan to be more like the process for neighborhood plan amendments rather than the process for a zoning case.

Specifically, the Resolution for the code amendment proposes that an amendment to Figure 1-2 (Subdistricts) would include enhanced participation such as conducting a community meeting with neighborhood contact teams and that contact teams would have the opportunity to submit a letter of recommendation regarding the application. This code amendment is under development (C20-2014-021).

The East Riverside/Oltorf Combined Neighborhood Plan Contact Team has provided correspondence indicating their opposition to the request, which would meet the intent of the Resolution (see Exhibit C-1).

44  
1/3**PETITION:**

Although a petition does not impose any requirements for voting by members of the Planning Commission, a petition was submitted on behalf of the residents north of Penick Drive to staff on October 31, 2014, with updates November 7, 2014 and November 19, 2014 (see Exhibit P). At the time of drafting this report, the petition, which currently stands at 27.43%, has met the threshold to be considered valid. (Should additional information and/or signatures be provided, staff will update the petition calculation accordingly).

**DEPARTMENT COMMENTS:**

The subject tract is located approximately 200 feet north of East Riverside Drive, stretching between Penick Drive to the west and Country Club Drive to the east (see Exhibits A). The subject tract, as well as the property immediately to the north between the tract and Penick, was included in the ERC Regulating Plan, but was not rezoned to ERC and thus maintained its SF-1-NP zoning that was approved in 2006.

Property immediately to the south, abutting Riverside, was zoned ERC and designated Neighborhood Mixed Use (NMU) subdistrict with the adoption of the East Riverside Corridor Regulating Plan in 2013 (see Exhibit E-1). With the exception of the westernmost portion of this ERC tract, the majority of that Riverside tract is also within a Hub boundary, and is also designated as eligible for participation in the density bonus program, should an owner wish to participate in the program at the time of site planning (see Exhibit E-2). The tract is eligible for development up to a maximum of 65 feet; however, owing to compatibility requirements within the ERC, buildings would be limited in height if adjacent to single-family or other triggering properties.

The subject tract, along with property immediately to the north and abutting Penick Drive, are four existing platted lots; these were also incorporated into the ERC Corridor with the Regulating Plan, but were not rezoned to ERC nor assigned a subdistrict designation. These lots were, however, assigned Special Regulating District (or SRD) as their future land use. These lots, including the subject tract, are outside the Hub boundary.

Penick Drive and the six SF-3-NP-zoned properties north of it are outside the boundary or the East Riverside Corridor. As such, they remain under the East Riverside/Oltorf Combined Neighborhood Plan. Likewise, the property beyond these residences, owned by Austin Community College and known as the Riverside Golf Course, is outside the boundary of the ERC, as is the Ruiz Public Library property to the northeast. Property to the east, across Country Club Drive and currently undeveloped, is within the ERC and is designated as NMU. Property to the west, across Penick, is also part of the ERC and designated NMU; a residence currently occupies that tract. To the south of Riverside Drive both NMU and CMU (Corridor Mixed Use) are found. Condominium residential, on either side of the new Rivers Edge Way, was developed under then-existing LO-MU zoning, which predated adoption of the ERC Regulating Plan.

The current request is to first, rezone the subject tract from SF-1-NP to ERC, and second, to designate the tract NMU. Although not part of the current rezoning/plan amendment application, the four currently-zoned SF-1-NP lots, plus the ERC lot at the northeast corner of Penick/Riverside are part of an amended plat that is currently in review and can be finalized upon completion of the rezoning/plan amendment application. Note, the amended plat application (C8-2014-0206.0A) can move forward with or without the rezoning.

No proposed change to the location of the Hub boundary is proposed, nor is there a request to make this subject tract eligible for participation in the development bonus program. The request

to rezone the property to ERC and assign NMU subdistrict designation is driven by the applicant's stated desire to have a more feasible property for development of a mixed-use project along Riverside, while simultaneously preserving single-family zoning along Penick Drive.

Correspondence from stakeholders has been attached (see Exhibit C).

**ABUTTING STREETS & TRANSIT:**

Street Name	ROW Width	Pavement Width	Classification	Sidewalks	Bike Route	Bus Service (within ¼ mile)
Penick Drive	45'	28'	Local	No	No	Yes
Country Club Drive	76'	20'	Local	No	No	Yes

- According to the Austin 2009 Bicycle Plan Update approved by Austin City Council in June, 2009, a bicycle facility is not identified on Penick Drive or Country Club Drive.

**EXISTING ZONING AND LAND USES:**

	ZONING	LAND USES
Site	SF-1-NP	Undeveloped
South	ERC (NMU)	Undeveloped; East Riverside Drive
North	SF-1-NP; SF-3-NP	Undeveloped; Penick Drive; Single-family residential
East	ERC (NMU)	Country Club Dr; Undeveloped
West	ERC (NMU)	Penick Drive; Single-family residential

**TIA:** Not Required

**WATERSHED:** Country Club East – Suburban

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No


**HILL COUNTRY ROADWAY:** No

**NEIGHBORHOOD ASSOCIATIONS & COMMUNITY ORGANIZATIONS:**

**COMMUNITY REGISTRY NAME**

**COMMUNITY REGISTRY ID**

Southeast Austin Neighborhood Alliance	189
Crossing Gardenhome Owners Assn.	299
El Concilio Mexican-American Neighborhoods	477
Austin Neighborhoods Council	511
Montopolis Area Neighborhood Alliance	634
Austin Independent School District	742
Del Valle Independent School District	744
East Riverside/Oltorf Neighborhood Plan Contact Team	763
Chambord-Austin Owner's Association	913
Riverside Farms Road Neighborhood Assn.	934
PODER	972
Homeless Neighborhood Organization	1037
Bike Austin	1075



Carson Ridge Neighborhood Association	1145
Super Duper Neighborhood Objectors and Appeals Organization	1200
Montopolis Neighborhood Plan Contact Team	1227
Sierra Club, Austin Regional Group	1228
The Real Estate Council of Austin, Inc.	1236
Pleasant Valley	1255
Austin Heritage Tree Foundation	1340
Del Valle Community Coalition	1258
Montopolis Neighborhood Association	1339
Montopolis Community Alliance	1357
SEL Texas	1363
Montopolis Neighborhood Association – El Concilio	1394
Preservation Austin	1424
East Austin Conservancy	1444
Friends of the Emma Barrientos MACC	1447

**SCHOOLS:**

Austin Independent School District:

Allison Elementary School      Martin Middle School      Eastside Memorial HS at Johnston

**ZONING CASE HISTORIES FOR THIS TRACT:**

The Pleasant Valley Neighborhood, of which the subject tract and surrounding properties were a part, was part of the East Riverside/Oltorf Combined (EROC) Neighborhood Plan, adopted in November 2006, at which time the Neighborhood Plan (NP) combining district zoning was added to properties within the planning area (C14-05-0113). However, several of the properties, including the subject tract, were rezoned while the EROC Plan was being finalized. These tracts have case numbers associated with the neighborhood plans, but actually preceded the plan's adoption. For such cases listed below, the NP was appended to the zoning string with the adoption of the Pleasant Valley Neighborhood Plan combining district zoning.

NUMBER	REQUEST	LAND USE COMMISSION	CITY COUNCIL
5602, 5604, and 5700 Riverside C14-05-0113.03	SF-3 to SF-1 & LR- MU-CO	Recommended; 10/25/2005	Approved; 03/02/2006
5602 & 5604 Riverside C14-2012-0111b	ERC (NMU Subdistrict)	Recommended; 10/23/2012	Approved; 05/13/2013

**ZONING CASE HISTORIES IN THE AREA:**

As noted above, the properties north of Penick Drive were excluded from the East Riverside Corridor Regulating Plan; none of these SF-3 properties were rezoned as part of a neighborhood planning effort, save for the addition of the NP combining district zoning.

Properties to south of Penick have been rezoned as part of the ERC Regulating Plan, and the East Riverside/Oltorf Neighborhood Plan before that.

C4  
/6

NUMBER	REQUEST	LAND USE COMMISSION	CITY COUNCIL
North of Riverside Drive			
1601 Grove Blvd C14-05-0113.02 (part of NP)	SF-3 to SF-1 and LR-MU-CO	Recommended; 10/18/2005	Approved; 03/02/2006
C14-2012-0112 (part of ERC)	ERC (NMU Subdistrict)	Recommended; 10/23/2012	Approved; 05/13/2013
South of Riverside Drive			
5701 Riverside C14-06-0091	LO to LO-MU-CO	Recommended; 06/13/2006	Approved; 07/27/2006 (CO limits vtd & requires buffer)
5401 Riverside C14-06-0090	LO to LO-MU-CO	Recommended; 06/13/2006	Approved; 07/27/2006 (CO limits vtd)

**CITY COUNCIL ACTION:**

November 20, 2014: Case not on agenda

**CASE MANAGERS:**Tonya Swartzendruber / [tonya.swartzendruber@austintexas.gov](mailto:tonya.swartzendruber@austintexas.gov) / 512-974-3462Lee Heckman / [lee.heckman@austintexas.gov](mailto:lee.heckman@austintexas.gov) / 512-974-7604Wendy Rhoades / [wendy.rhoades@austintexas.gov](mailto:wendy.rhoades@austintexas.gov) / 512-974-7719

64/7

## **SUMMARY STAFF RECOMMENDATION**

To grant ERC-CO zoning, and to further Designate Neighborhood Mixed Use as the ERC subdistrict by amending the East Riverside Corridor Regulating Plan Figure 1-2, which is in turn reflected on Figure 1-7, base height without development bonus. The Conditional Overlay prohibits 1) vehicular access (except for emergency access) to Penick Drive because it is a local street with single family zoning, and 2) habitable structures.

## **BACKGROUND/PURPOSE STATEMENTS**

The current base zoning is SF-1-NP, or single-family residence (large lot)-neighborhood plan combining district zoning. The SF-1 zoning district is intended as an area for low density single-family residential use, with a minimum lot size of 10,000 square feet. This district is appropriate for locations where sloping terrain or environmental limitations preclude standard lot sizes, or where existing residential development has lots of 10,000 square feet or greater. NP – Neighborhood Plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.

The proposed zoning is ERC, or East Riverside Corridor. ERC zoning is intended for properties included within the East Riverside Corridor Master Plan and East Riverside Corridor Regulating Plan. The purpose of the ERC district is to provide appropriate standards to ensure a high quality appearance for development and redevelopment and promote pedestrian-friendly design, to improve access to transit services and create an environment that promotes walking and cycling, among other goals identified in the Master Plan. There are five subdistricts within the ERC zoning district; each has distinct site development and use standards to ensure that the development is in line with the East Riverside Corridor Master Plan vision. Additional standards apply depending on the roadway type(s) adjacent to the tract, and tracts within an ERC Hub may also have specific standards. For more information on the East Riverside Corridor Regulating Plan, please visit our web site at: <http://austintexas.gov/page/east-riverside-corridor-master-plan>

In addition, the proposed ERC subdistrict is NMU, or Neighborhood Mixed Use. This subdistrict is a medium density subdistrict within the East Riverside Corridor and provides for mid-rise residential with neighborhood-oriented retail and smaller employers. It is intended to have opportunities for attached residential and smaller-scale commercial uses (see Exhibit E-3 for a summary).

## **BASIS FOR RECOMMENDATION**

***Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character; and***

***Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.***

It is obvious that replacing SF-1 base zoning with ERC, Neighborhood Mixed Use at this location does bring NMU development closer to established SF-3 zoned homes outside of the ERC. However, compatibility is triggered by single family residential use, and entails limits to height and requires setbacks that would otherwise not apply in NMU. As adopted, the ERC Regulating Plan establishes three zones of Height and Form that step back and up away from triggering property. These zones include screening and restricted use zones, as well as the "building" zones (see Exhibit E-4).

c4  
/ 8

NMU, as a subdistrict, is limited to a maximum height of 50 feet. In this particular case, the existing NMU tract along Riverside is 200 feet deep. If the zoning and plan amendment request is granted, the new NMU tract would be approximately 247' in depth. Normally, compatibility-triggering and abutting property would entail a 25' zone for screening and restricted use. The next 25' could only be 30' in height, with the next 50' at 40 feet in height, and so on. That leaves the southernmost portion of the property along Riverside with a maximum height of 60 feet based on compatibility, but capped at 50 feet maximum as determined by the NMU subdistrict.

The subject tract, which is just under 47' in width, would extend the NMU development closer to Penick; the setbacks and height limitation may or may not remain the same. An important aspect of the ERC is that compatibility is triggered by use – not zoning. Therefore, rather than compatibility starting at the boundary line between the proposed northern NMU/southern SF-1-NP boundary line, it would start at the outer, northern edge of Penick Drive, abutting the existing single-family residences.

That compatibility was triggered by use and not zoning was not understood by City staff until November 19, 2014, at which time it was communicated to Penick Drive residents with an invitation to meet and discuss further.

The real-world significance of this compatibility trigger is unknown. While it may seem that compatibility is reduced or even eliminated given the distance of the single-family residences to the proposed NMU line (a distance that varies between approximately 86 and 110 feet and includes approximately 50 feet of right-of-way), and that the NMU owner could construct a 40' building at that line, the reality is that the abutting single-family zoned lots are owned by the same entity seeking the rezoning. Any impacts by not meeting standard ERC (or even Subchapter E) compatibility standards would be to their own property. At the same time, if the SF-1-NP lots are developed first, then compatibility would be triggered by those new residences.

If the NMU request is approved, it could provide another 47 feet (of depth) along Riverside that could be built to a maximum height of 50 feet (per the subdistrict). The existing NMU is also within a transit Hub boundary (see Exhibit E-2), and is eligible for a maximum bonus height of 65' if the owner chooses to participate in the development bonus program at the time of site planning. The subject rezoning/ERC subdistrict designation tract is not proposed to be included in the Hub boundary; however, it could provide for additional opportunity for the adjacent property already in the Hub.

Per ERC compatibility, buildings between 100 to 200 feet from triggering property can be a maximum of 60 feet in height; after a distance of 200 feet from such property, buildings can be 120 feet (both these maximums are limited by subdistrict allowances). Therefore, if the NMU was granted to the subject tract, and the owner participated in the development bonus program, the end result could be a building that was 65' in height, but that height would be, at a minimum, only allowed within the Hub boundary, which is between approximately 130 and 200 feet away from (currently) triggering properties. The existing Hub boundary, which excludes the existing NMU tract immediately east of Penick Drive, is not extended with this rezoning request. Outside the Hub boundary, buildings could be at most 50 feet in height (limited by NMU), provided this was 100 feet away from triggering property; height would be capped at 40 between a distance of 50 and 100 feet, and 30 feet for anything within a distance of 25 to 50 feet.

At the same time, NMU is limited to an FAR of 1:1. That, along with ER requirements for building placement and articulation requirements, will help ensure this is not developed as a monolithic building sprawling across the site. The request would allow for additional development; whatever



c4  
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form that might take under a "by NMU right" or "by bonus program participation," would center that additional development along Riverside.

Staff is aware some may see this reduction in single-family residential area as an encroachment and detrimental to neighborhood character. However, given the compatibility standards of the ERC that address setbacks, height limitations, screening zones and other requirements, the potential mixed use development should be compatible with both existing uses on the opposite side of Penick and future uses between the subject tract and Penick – namely, single-family residential.

NMU as a subdistrict was intended to provide for mid-rise residential and neighborhood-oriented retail. It is less intense than Corridor Mixed Use, which lines much of Riverside Drive. As a subdistrict it is meant to be compatible with residential, from a use perspective, similar to the less intense office, multifamily, or commercial zoning districts. Staff thinks the request for NMU is one that promotes compatibility. As described above, one may anticipate that any additional development opportunities resulting from this request would be abutting Riverside. As such, this combined 247' deep tract would provide the classic transition from the most intense development along Riverside tapering down and away from Riverside through the currently zoned SF-1-NP tract and across Penick to existing SF-3-NP zoned residences.

***Zoning should be consistent with an adopted study, the Future Land Use Map (FLUM) or an adopted neighborhood plan; and***

***The rezoning should be consistent with the policies adopted by the City Council or Planning Commission/Zoning and Platting Commission.***

The subject tract and the remainder of the SF-1-NP property south of Penick was included within the ERCRP when it was adopted in May 2013. At that time the property was also designated SRD (Special Regulating District) for Future Land Use purposes. It was not, however, zoned ERC nor assigned a subdistrict designation, as were the tracts along Riverside.

With the exception for existing PUDs and public facilities (e.g., school, library, park), nearly all the property within the ERC boundary was zoned ERC and assigned a subdistrict designation. This tract and its SF-1-NP parent tract is one of those cases where it was not. However, staff is of the opinion that if some form of development under the ERC zoning designation and under the available ERC subdistricts was not expected, then the property would have been excluded from the adopted ERC boundary, retained its neighborhood plan FLUM designation, and not been assigned SRD. In short, if the property was included in the ERC, then it follows that it would be developed under ERC zoning and with an appropriate ERC subdistrict designation that provides uses and site development standards.

14/10

## EXISTING SITE CHARACTERISTICS AND REVIEW COMMENTS

### Site Characteristics

The subject tract is undeveloped, as are its parent parcels to the north. The track is ostensibly flat. The highpoint for the area between Riverside and Penick is at Riverside, with an elevation change of about 10 feet as it slopes to the west, north, and east. There are small trees and shrubs on the parent parcel, but it is not thought any of these are protected. There are no known environmental features, and development of the tract should not be unduly constrained by topological or environmental features.

### PDRD Environmental Review (9/30/2014) MM)

1. The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Country Club East Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. The site is in the Desired Development Zone.
2. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Gross Site Area</i>	<i>% of Gross Site Area with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

3. According to floodplain maps there is no floodplain within or adjacent to the project location.
4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
5. No trees are located on this property. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
6. Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2 year storm on site.

### PDRD Site Plan Review (1/2014) (MSS)

Development on this site will be subject to the *East Riverside Corridor Regulating Plan*. Additional comments will be provided upon submittal of a site plan.

### PDRD Transportation Review (9/29/2014) (BG)

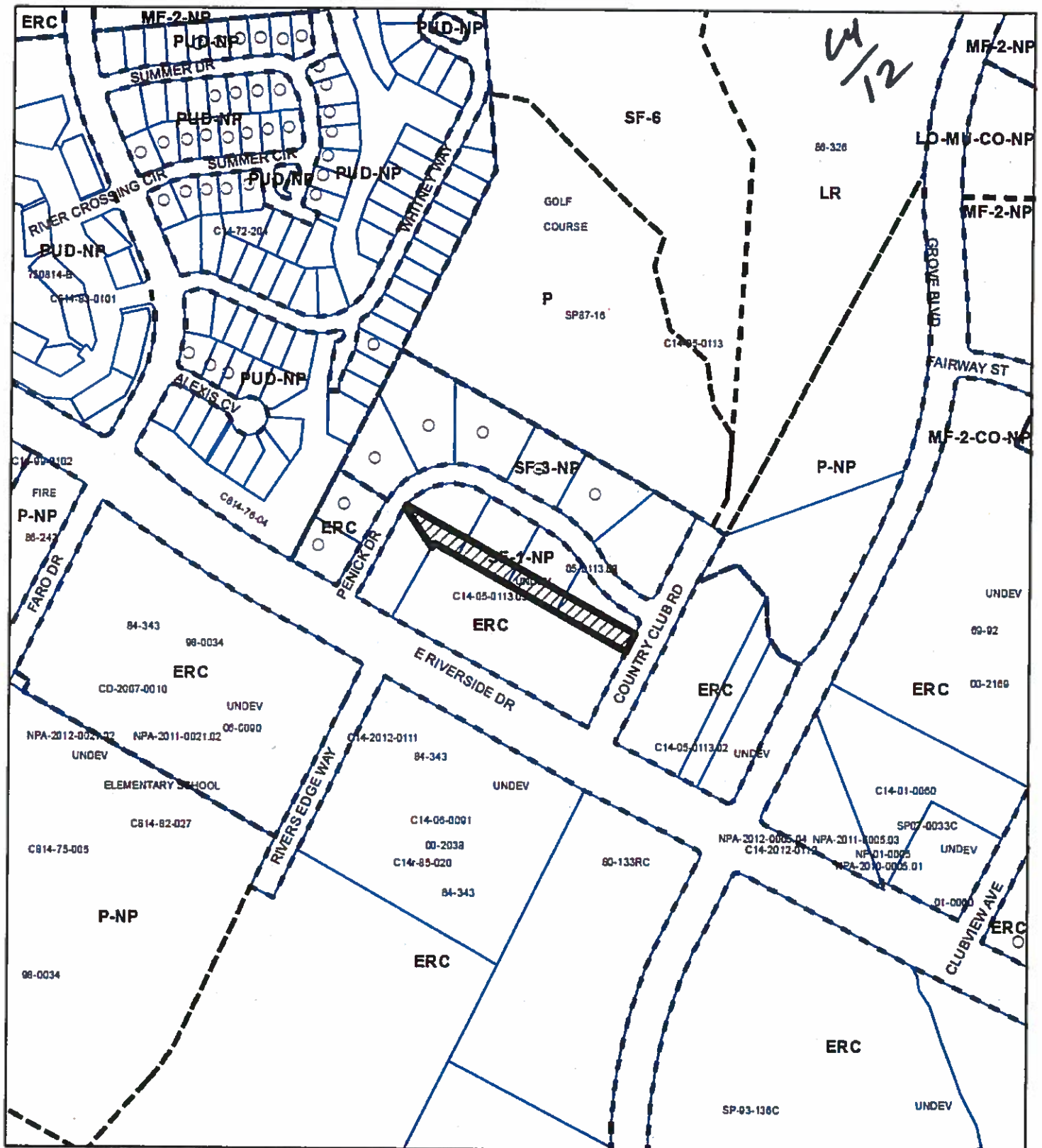
1. If the requested zoning is granted, it is recommended that access to Penick Drive be prohibited as a condition of zoning because it is a local street with single family zoning.




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/ 11

2. Additional right-of-way may be required at the time of subdivision and/or site plan.
3. If the requested zoning is granted, it is recommended that joint access be provided for the 4 lots along Penick Drive.
4. A traffic impact analysis may be required at the time of site plan based on proposed uses.
5. A Neighborhood Traffic Analysis may be required at the time of site plan unless access to Penick Drive is prohibited. LDC, Sec. 25-6-114.

**Water Utility Review (09/25/2014) (NK)**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, water or wastewater easements, utility relocations and or abandonments required by the proposed land use. Depending on the development plans submitted, water and or wastewater service extension requests may be required. Based on the rezone to multi- family use which requires 1500 GPM fire flow a water SER will be required. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria and suitability for operation and maintenance. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 300'

## ZONING

CASE#: C14-2014-0159

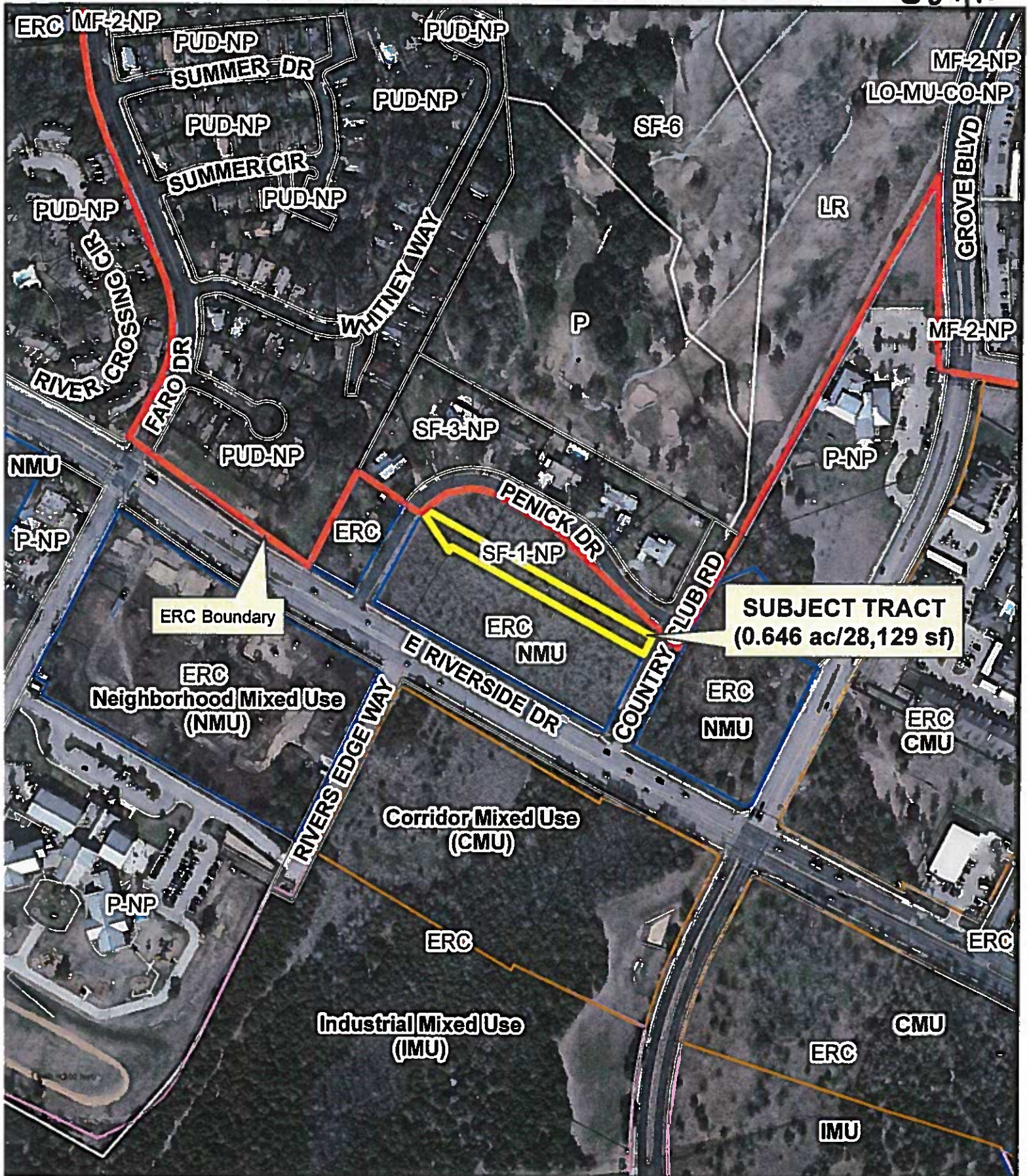
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

**Exhibit A - Zoning**



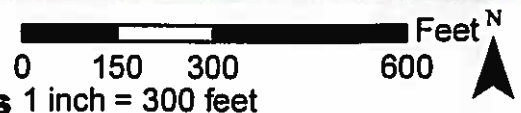




Aerial: 2012-01

**Exhibit A - 1**

**Aerial, Zoning, & ERC Subdistricts**



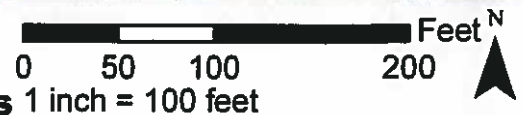




Aerial: 2012-01

**Exhibit A - 2**

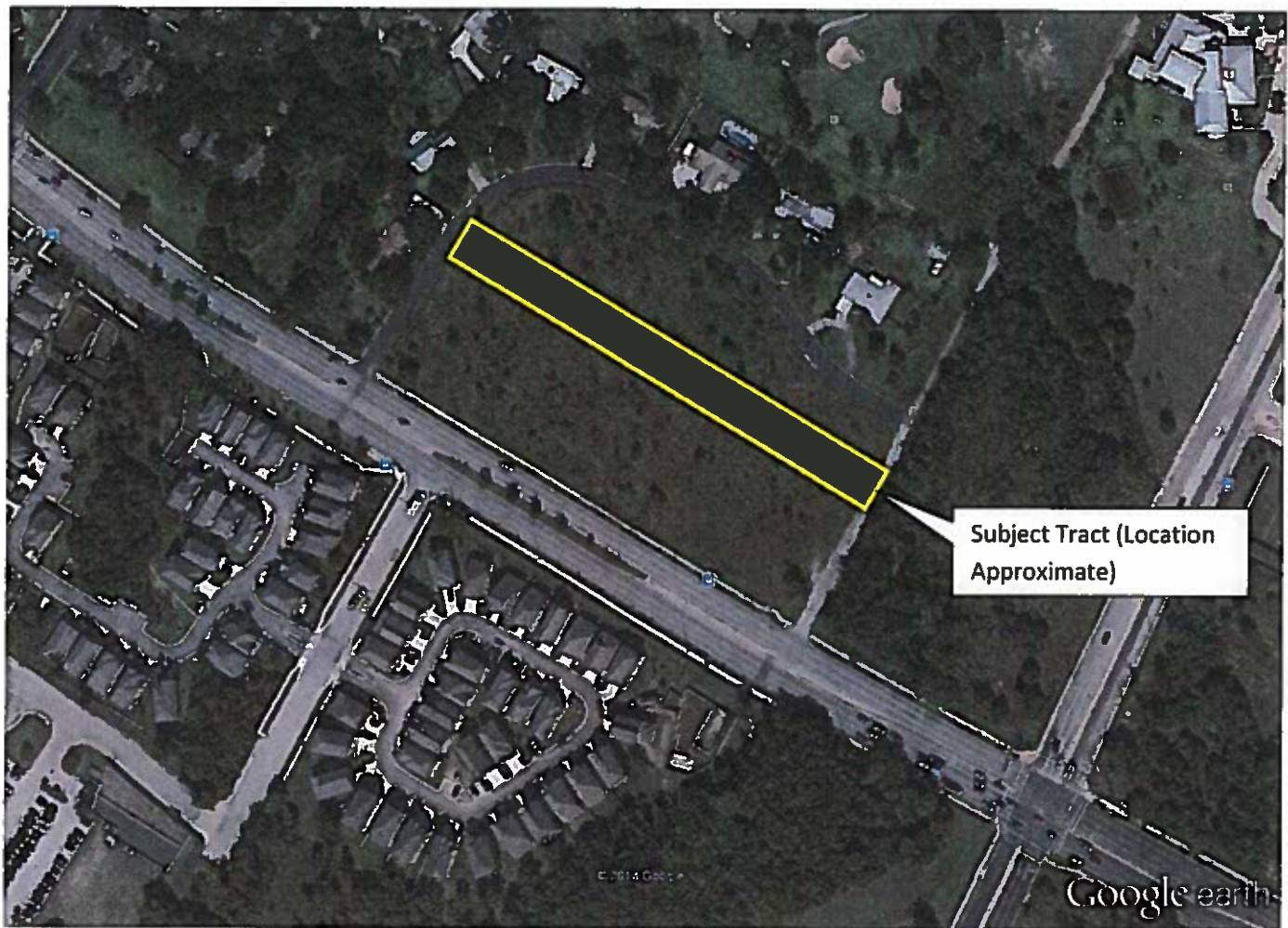
**Aerial, Zoning, & ERC Subdistricts**





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1/6

**C14-2014-0159 / Penick Drive Rezoning**

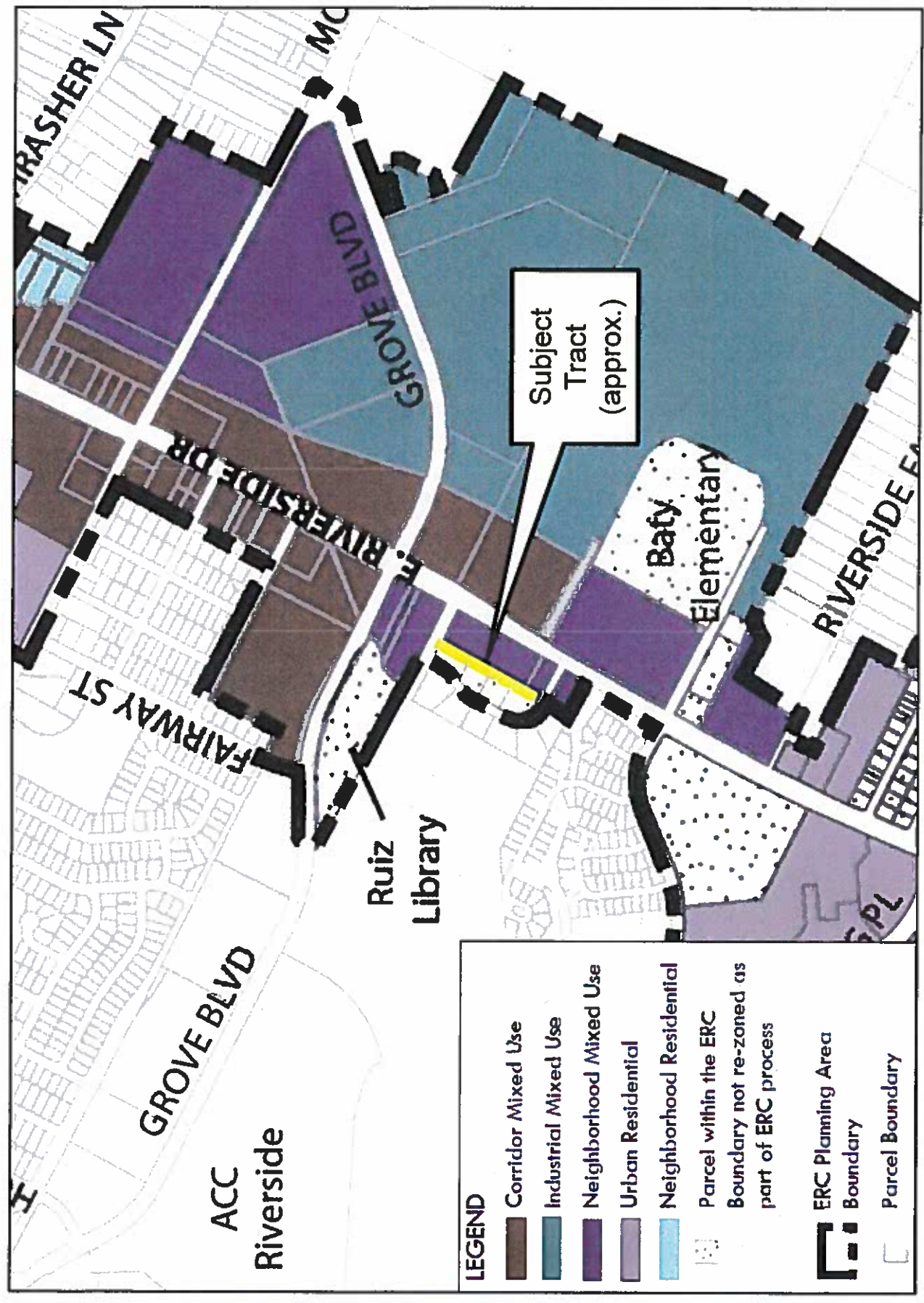


Source: Google Earth; Accessed 2014-11-06

**Exhibit A – 3  
2014 Imagery**

12/16

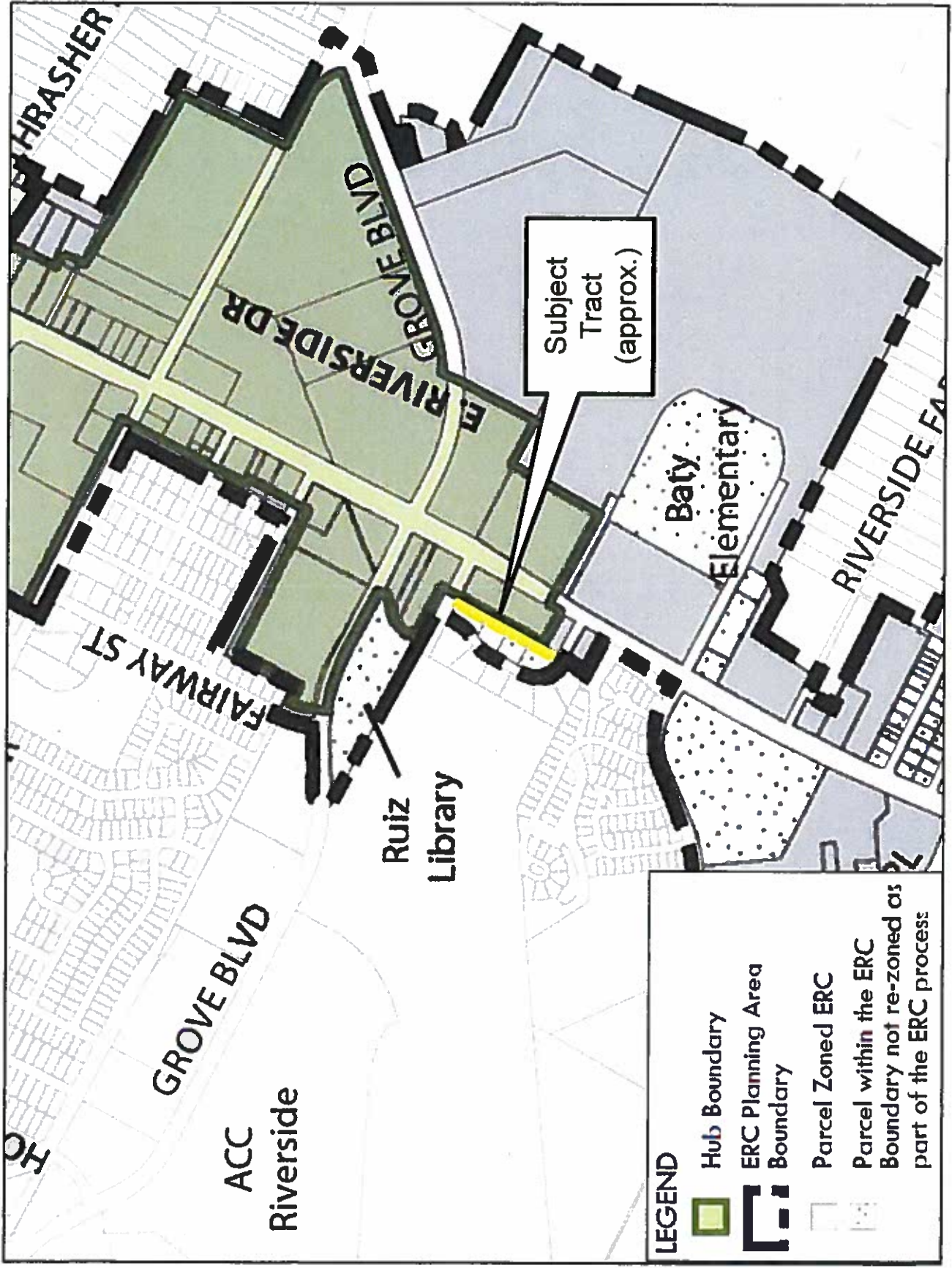
Exhibit E - 1 ERC Subdistricts



**LEGEND**

- Corridor Mixed Use
- Industrial Mixed Use
- Neighborhood Mixed Use
- Urban Residential
- Neighborhood Residential
- Parcel within the ERC Boundary not re-zoned as part of ERC process
- ERC Planning Area Boundary
- Parcel Boundary





**LEGEND**



- Hub Boundary
- ERC Planning Area Boundary
- Parcel Zoned ERC
- Parcel within the ERC Boundary not re-zoned as part of the ERC process

**Exhibit E - 2 ERC Hub Boundary**

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**Figure 1-11: Neighborhood Mixed Use (NMU)  
Summary of NMU Subdistrict Development Standards**

CMU	<b>Lot Size</b>	<b>Floor to Area Ratio (FAR)</b>	<b>NEIGHBORHOOD MIXED USE (NMU) SUBDISTRICT</b>  The Neighborhood Mixed Use Subdistrict provides for mid-rise residential with neighborhood-oriented retail and smaller employers. It is intended to have opportunities for attached residential and smaller-scale commercial uses.	CMU			
	<b>Minimum Lot Size:</b> 1,600 sf <b>Minimum Lot Width:</b> 20'	<b>Maximum Floor-to-Area Ratio (FAR) by Right:</b> 1:1  <b>Desired minimum FAR:</b> 60% of maximum FAR by right.  <small>Note: Additional building height may be granted in exchange for the provision of public benefits. Maximum FAR waived with a development bonus. Development bonus criteria and standards are detailed in Article 6.</small>			IMU		
	<b>Minimum Setbacks</b>	<b>Building Height</b>				NMU	
	<b>Front and Street Side Yard*:</b> No ground-level front yard or side yard setbacks are required. Instead, development must meet the building placement standards in Section 4.3.	<b>Maximum Building Height:</b> 50 feet  <b>Maximum Building Height with Development Bonus:</b> See Figure 1-8.					UR
	<b>Interior Side Yard:</b> 0' <b>Rear Yard:</b> 0'	<b>Compatibility</b>					
<b>Upper-Story Building Facade Street-Side Step-backs:</b> The building facade at the fourth story and above must be stepped back a minimum of 10 feet from the ground-level building facade line.  <small>* If the street right-of-way is less than 60 feet in width, see Section 4.3.3.C.</small>	<b>See Section 4.2.4 for compatibility standards.</b>						
<b>Building Placement</b>							
<b>Building placement determined by Roadway type and Active Edge Designation.</b>  <small>*See Fig. 1-3 for Roadway Type designation and Section 4.3 for design requirements.</small>							
<b>Maximum Impervious Cover</b>							
<b>Impervious Cover:</b> <b>80% or Maximum Allowed by LDC 25-8.</b>							

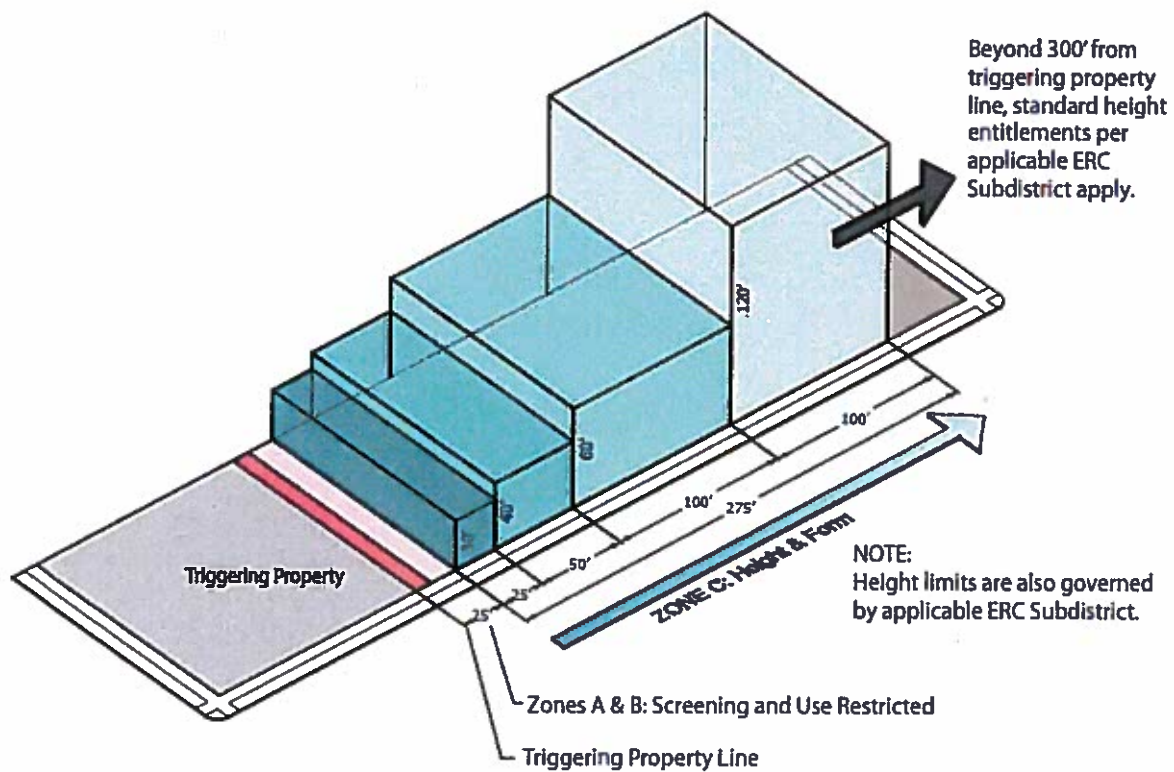
	<b>ABOVE &amp; BELOW:</b> Examples of development similar to that allowed in the Neighborhood Mixed Use Subdistrict.	

Land Use	
Residential, attached	Permitted
Residential, detached	Not Permitted
Smaller-scale Retail (less than 50,000 sq. ft.)	Permitted
General Retail	Not Permitted
Office	Permitted
Warehousing & Light Manufacturing	Not Permitted
Education / Religion	Permitted
Hospitality (hotels/motels)	Permitted
Civic Uses (public)	Permitted

\*The table above provides a summary only of land uses permitted within the Neighborhood Mixed Use Subdistrict. See Section 2.3.3. for a complete list of permitted land uses.

**Exhibit E - 3 NMU Subdistrict**





**Figure 4-4: ERC Compatibility Height Restrictions**

The compatibility standards for the ERC incorporate three Transition Zones: Zone A - Screening, Zone B - Use Restricted, and Zone C - Height & Form

### c. Height

See Figure 4-4 for illustration of ERC compatibility height restrictions.

**NOTE:** Allowable height is also limited by the maximum allowable height for each ERC Subdistrict. Whichever height limit is most restrictive, per this section or ERC Subdistrict, determines the height allowed on the site.

- i. Between 25 and 50 feet from the triggering property line, no building or structure may exceed 30 feet or two stories in height.
- ii. Between 51 feet and 100 feet from the triggering property line, no building or structure may exceed 40 feet.
- iii. Between 101 feet and 200 feet from the triggering property line, no building or structure can exceed 60 feet.
- iv. Between 201 feet and 300 feet from the triggering property line, no building or structure can exceed 120 feet.

## Exhibit E – 4 ERC Compatibility

C4  
/20

**From:** Malcolm Yeatts  
**Sent:** Friday, October 24, 2014 2:58 PM  
**To:** Heckman, Lee  
**Subject:** Case C14-2014-0159

The EROC Contact Team has voted to oppose the zoning request C14-2014-0159 (Penick Drive).

C4  
/21

**From:** lpworkout  
**Sent:** Sunday, October 19, 2014 5:25 PM  
**To:** Heckman, Lee  
**Cc:** Don Stewart  
**Subject:** Rezoning case no. C14-2014-0159

Mr. Heckman, this email is in protest of the above referenced rezoning request. The contents of this email are also included in the response form which I will mail to you this week. I do not have contact information for all the Planning Commission members, but trust you will forward this or otherwise make available to them.

My husband Don Stewart and I have lived at 5608 Penick Drive for 23 years, during all of which time the neighborhood has been 100% owner-occupied single family residences. Maintenance and enhancement of the existing neighborhood character is paramount to us and to all our neighbors. Our home was the home of Harvey Penick during his years as golf pro at the original Austin Country Club, now Riverside Golf Course. The neighborhood always has acknowledged the value of honoring the Penick legacy by retaining its unique character.

In meetings through the years, Mr. Greif assured us that he too cares about the appearance and character of our neighborhood. In approximately 2004, we agreed to rezone the subject lots to SF-1 and minimize density development on Penick, in exchange for Mr. Greif rezoning his Riverside Drive frontage property to NMU so that he could develop that frontage property in keeping with the Riverside corridor master plan. Oral assurances were made that a sound or a green barrier would be included in an effort to insulate the single family homes from any retail development on Riverside. The current rezoning request and proposed development plans erode those assurances. We object to high density, multi story residential and commercial buildings, as they do not reflect the historical character of the neighborhood. There already is plenty of such development in the East Riverside Corridor, and the City must honor the EROC neighborhood plan goal to preserve the character of existing residential neighborhoods. We are unique, and construction of 300 apartments plus 3-story commercial buildings will destroy that.

We urge City staff and the Planning Commission to NOT approve rezoning of 5617-5717 Penick Drive.  
Thank you for your time and thoughtful consideration.

Respectfully,

Donald Stewart

Linda Paulson

5608 Penick Dr

Austin, TX 78741

14  
/ 22

**From:** Eran G  
**Sent:** Monday, October 20, 2014 12:57 PM  
**To:** Chimenti, Danette - BC  
**Cc:** Heckman, Lee  
**Subject:** Preserve the Harvey Penick Neighborhood

Danette,

The Harvey Penick Neighborrhood is 100% owner-occupied and is 100% unified against the proposed rezoning as it would certainly result in the destruction of the character of the neighborhood. The street is named after Legendary Austin Icon - Harvey Penick - who once lived on the street.

A decade ago, the owner of the tract that is requesting rezoning made an agreement with the neighborhood whereby the lots facing Riverside would become mixed use (our concession) if the Penick-facing lots would remain SF1- thereby ensuring the completion of our subdivision - retaining its current character.

This latest, proposed zoning change would drastically change the neighborhood and effectively be a complete railroading of this unique and unified neighborhood.

With the last round of zoning changes (2012) further concessions were made whereby one of the lots (corner lot of Penick and Riverside) switched from SF1 to NMU. And yet, now even more concessions are being requested.

Please include this email in file of record as this extremely relevant - from an Austin History perspective - Neighborhood wants it to be know that we are 100% unified against the proposed change. You will be hearing from other neighbors as well.

Please let me know your position on the proposed zoning change - and your thoughts on our chances of preventing the little guys from getting run-over by the developer/speculators.

Sincerely,

Eran Gronquist

5704 Penick Dr.

64/23

**From:** Eran G  
**Sent:** Monday, October 20, 2014 1:16 PM  
**To:** Stevens, Jean - BC  
**Cc:** Heckman, Lee  
**Subject:** Harvey Penick Neighborhood - unified against destruction of historically significant neighborhood

Jean,

The Harvey Penick Neighborhood is 100% owner-occupied and is 100% unified against the proposed rezoning as it would certainly result in the destruction of the character of the neighborhood. Penick Dr. is named after Legendary Austin Icon - Harvey Penick - who once lived on the street. Harvey Penick wrote the Little Red Book - the best-selling Sports book of all times. He was also mentor to Tom Kite and Ben Crenshaw -and good friends with Darryl Royal. This is Austin History.

As someone who studied Transportation Planning in Grad School (Texas State MAG 1997), I understand and appreciate the need for higher densities along major corridors. However, there also needs to be a balance of protecting some neighborhoods, character and history. This neighborhood is unique and historically significant and deserves to be saved.

The latest, proposed zoning change would be very out of character for this stretch of Riverside. The Commercial creep into this area of riverside - that is currently all SF1 - is over-the-top. Over the last couple of years, the City allowed the development of a number of SF1 homes directly across Riverside from the proposed development - making an even larger (than currently zoned) commercial development at this site even more out of character (surrounded by residential on all sides).

The current zoning allows for significant commercial development the Riverside lots and we are unified against further changes.

Please let me know your position on this and please also include this on file for the record.

Sincerely,

Eran Gronquist

5704 Penick Dr.

14  
/ 24

**From:** Eran G  
**Sent:** Monday, October 20, 2014 1:39 PM  
**To:** Hernandez, Alfonso - BC  
**Cc:** Heckman, Lee  
**Subject:** Preserve the Harvey Penick Neighborhood from extremely out of character commercial creep

Alfonso,

The Harvey Penick Neighborhood is 100% owner-occupied and is 100% unified against the proposed rezoning as it would certainly result in the destruction of the character of the neighborhood. The street is named after Legendary Austin Icon - Harvey Penick - who once lived on the street.

A decade ago, the owner of the tract that is requesting rezoning made an agreement with the neighborhood whereby the lots facing Riverside would become mixed use (our concession) if the Penick-facing lots would remain SF1- thereby ensuring the completion of our subdivision - retaining its current character.

With the last round of zoning changes (2012) further concessions were made whereby one of the lots (corner lot of Penick and Riverside) switched from SF1 to mixed use. And yet, now even more concessions are being requested.

This latest, proposed zoning change constitutes overwhelming Commercial Creep - and would drastically change the character of the neighborhood. It would also effectively be a complete railroading of this unique, historical and unified neighborhood.

Please include this email in file of record as this extremely relevant (from an Austin History perspective) Neighborhood wants it to be known that we are 100% unified against the proposed change. You will be hearing from other neighbors as well.

Please let me know your position on the proposed zoning change - and your thoughts on our chances of preventing the little guys from getting run-over by the developer/speculators.

Sincerely,

Eran Gronquist

5704 Penick Dr.



14  
26

**From:** billy Cassis

**Sent:** Monday, October 20, 2014 5:05 PM

**To:** Heckman, Lee; Chimenti, Danette - BC; Hernandez, Alfonso - BC; Stevens, Jean - BC; Oliver, Stephen - BC; Hatfield, Richard - BC; Jack, Jeff - BC; Nortey, James - BC; Roark, Brian - BC; Varghese, Lesley - BC; Zaragoza, Nuria - BC

**Subject:** Case for rezoning Sf-1 lots in Harvey Penick Neighborhood C14-2014-0159

Mr. Heckman, and all esteemed City of Austin Planning Commission members,

This is a formal notice of opposition to the proposed zoning change on Penick Dr.

File Number C14-2014-0159

The adjacent home owners/ residents have been working with the land owner/ applicant for more than 10 years to reach a mutually amicable site plan for the completion of our unique subdivision off of East Riverside Dr.

In that process, there have been prior applications for zoning change in which we have agreed to see large portions of this parcel that lie within the ERC plan to be re-zoned and re-subdivided in a way that is consistent with the ERC vision as well as Mr. Greif's desire to maximize the parcel's FAR and its speculative resale potential.

We had conceded to this within the limits of fulfilling a criteria for the completion of our subdivision in a way that is understood to be consistent with its inherent character, preventing any drastic change of use or intensity of development in order to preserve what we have been nurturing in this 60 year old, 100 percent owner-occupied neighborhood.

**We advise the current zoning category of SF-1 to remain in place and planning commission withhold a recommendation to change the zoning or lot boundaries so that all involved parties maintain the integrity of established compatibility standards.**

That said, the current application to re-subdivide and acquire more NMU area is beyond the limits of what surrounding property owners have the capacity to accept. As recent as 2012, the City Council voted to maintain the SF-1 category for the four remaining vacant lots in question, while the SF lot with Riverside frontage was given NMU zoning. Only one and a half years later, this latest proposal would reduce those SF lots buildable area into much smaller lots that cannot effectively offer the reflectivity and compatibility that we have clearly requested to remain in place in our concerted effort to simply see the subdivision completed as close to its original design as possible.

While the implications for change-of-use easements, triggering properties setbacks for density, height restrictions and the street's increased traffic burden are all issues that are of equal importance, they are too complex to address in this email. The parcel is located on a particularly poor sight line along west bound Riverside Dr at the outlet of Penick Dr. Any additional vehicular access proposed in a site plan at this location could be considered negligent from a design standpoint. The increased vehicular load of the adjacent Milestone development alone has placed increased hazards on this section of what is an

C4  
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incredibly busy street. Many area residents use turn lanes for u-turns to navigate coming and going into entrances that only offer one way access. The proposed density of the applicants parcel will create more traffic complexities that I am afraid at this point have not been scrutinized sufficiently. Additionally, in past EROC meetings, I was made aware of sensitivities regarding development of the parcel that lies within the Country Club Creek Watershed and potential hazards of storm water quality and management if density was the primary goal for development.

In summary, the previous and current property owners living on Penick Dr and members of the EROC team have worked with Mr Bill Greif for years and voted fairly in his favor for creating a development plan that met his criteria within the physical limits of the parcel itself. At this point, we see the latest application as a disregard for those years of practical planning in exchange for the pursuit of maximum density at the expense of our neighborhood's character, history, and its potential legacy. Thank you for your consideration in this matter, and I am always available for discussion. 512-632-2748

Kind Regards,

Billy Cassis

5602 Penick Dr

C4  
/ 27

**From:** Eran G  
**Sent:** Tuesday, October 21, 2014 12:56 PM  
**To:** Oliver, Stephen - BC  
**Cc:** Heckman, Lee  
**Subject:** Preserve the Harvey Penick Neighborhood - C14- 2014-0159

Mr. Oliver,

I am writing to you today to ensure that you are aware that our unified, 100% owner-occupied neighborhood is opposed to the Applicant's (Bill Greiff) rezoning request for a number of reasons - one reason is the preservation of neighborhood with historic significance - Harvey Penick is a legendary Austin icon.

There are numerous reasons why the current, MU zoning - on the Applicant's Riverside facing lots - is absolutely appropriate as-is. The tract is completely surrounded by residential homes (on both sides of Riverside).

I am pro high-density along the Riverside Corridor - and have been ever since becoming exposed to the Austin Tomorrow Plan of the 1970s when I took my first Graduate level Land Use Planning course in 1994. I did my Graduate Thesis on Austin Transportation - promoting the very type of smart growth the ERC hopes to achieve. I support it.

We have known for decades that Riverside should be developed at high densities - and that is why in 2004, an agreement was reached between the Applicant and the Neighborhood resulting in rezoning of the Applicant's Riverside-facing lots from residential to mixed use - in exchange, the Neighborhood secured zoning that protected it (Penick-facing lots remained SF - reflective of the Neighborhood). The problem is that sometime between 2004 and 2012 the ball was completely dropped on the (prior to 2012) undeveloped tract directly across Riverside from the Applicant's tract. It was developed in the last two years as residential (directly on Riverside).

So, the Applicant's current, and very appropriate MU zoning - when built out - will be surrounded by residential homes. It will stand out (because of the 2012 failure directly across Riverside - Millstone) and all of the previously existing SF homes - as being the only MU on that stretch of riverside.

However, the proposed density increase will make the only MU surrounded completely by residential homes REALLY stand out - and will not in any way be in character of the existing residential homes on all sides - or all of the residential units just erected directly across Riverside.

The Neighborhood made a concession in the 2004 agreement. Another concession was made in 2012 when a corner lot owned by the applicant was turned (appropriately) to MU. But this latest encroachment on a 100% unified and owner occupied and historically significant Neighborhood appears to be an (over) compensation for the failure of 2012 (residential directly this stretch of Riverside). Please include this email in file of record. Please also let me know if there is a time we can meet to discuss.

Sincerely,

Eran Gronquist  
5704 Penick Dr.

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

R 10/22/14

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:  
<http://www.austintexas.gov/development>.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2014-0159

Contact: Lee Heckman, 512-974-7604

Public Hearing: Oct 28, 2014, Planning Commission

Nov 20, 2014, City Council

Donald M Stewart

Linda G Paulson

Your Name (please print)

5608 Penick Dr

Your address(es) affected by this application

5608 Penick Dr

Signature

Daytime Telephone: (512) 589-7075

Date

10/20/2014

Comments: Our interest is to maintain & enhance the existing character of the neighborhood, which in 1980s was a residential single family neighborhood. There are very few of these remaining in the ERC, & it is essential to keep this one intact. This rezoning will erode the character, as it forces the way for high density multi-story development - this already is being built in the Riverside District. Please let us maintain the Penick historical legacy by protecting integrity of our single family residential.

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Lee Heckman

P. O. Box 1088

Austin, TX 78767-8810

5/28

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

R 10/22/14

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:  
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Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2014-0159

Contact: Lee Heckman, 512-974-7604

Public Hearing: Oct 28, 2014, Planning Commission

Nov 20, 2014, City Council

Bekha Patel  
Your Name (please print)

2101 Rivers Edge Way # 20

Your address(es) affected by this application

[Signature]

Signature

10/20/14

Date

Daytime Telephone: 4329400018

Comments:

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Lee Heckman

P. O. Box 1088

Austin, TX 78767-8810

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/30

**From:** Luke Dodson  
**Sent:** Friday, November 07, 2014 3:59 PM  
**To:** Heckman, Lee  
**Subject:** Re: Petition for Penick Case C14-2014-0159

Lee,

Just going on the record here.

I live at 5700 Penick Dr., Austin, TX

Me and my family of four are also opposed to this rezoning and re-subdividing.

I oppose the proposed rezoning. It's bad idea for our neighborhood, bad idea for East Riverside, bad idea for our city.

Luke dodson

64  
31

## PETITION

Date: 10/28/14

To: Austin City Council

Permit/Complaint: 2014-101246 ZC

Case Number: C14-2014-0159

Address of Rezoning Request: 5617, 5701, 5709, 5717 Penick Drive

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby *protest against any change* of the Land Development Code which would zone the property in full or partially to any classification other than SF-1-NP.

### REASONS:

1. INCOMPATIBILITY: significantly goes against preserving and enhancing the character of existing residential neighborhood...both immediate and along the corridor of new and older existing structures and zoning.
2. RECENT COMPROMISES TO APPLICANT AND CITY: supporting urban development/ERC with no reciprocation or upheld agreements
3. IN 2012, CITY COUNCIL VOTED/PASSED SF1 ZONING: rehashed, repackaged, redundant
4. HISTORIC NEIGHBORHOOD AND HOMES on the street
5. COMMERCIAL CREEPING: 10 years ago supported applicant with rezone, subdivide of 5 SF lots. 2 years ago, lost 1 SF lot to ERC.
6. WATER QUALITY: Country Club Creek watershed with artery and flood plain is next to subject property
7. DE-VALUE: no assurances to future development as all submitted renderings are speculative and do not show maximum potential this re-zoning creates.





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MAP#	ADDRESS	Parcel   Tax ID   ACRES
1	5704 Penick Dr	286716 03061201020000 0.8695
2	5702 Penick Dr	286717 03061201030000 0.599
3	5700 Penick Dr	286718 03061201040000 0.5251
4	5608 Penick Dr	286719 03061201050000 0.4744
5	5606 Penick Dr, A	286720 03061201060000 0.9949
5	5606 Penick Dr, B	286720 03061201060000 0.9949
6	5604 Penick Dr	286721 03061201070000 0.5381
7	5602 Penick Dr	286722 03061201120000 0.7329

	SIGNATURE	PRINTED NAME	ADDRESS	EMAIL / PH#
1		LUCY SHEFFIELD	5606 PENICK	512.784.3048
2		Linda G. Paulson	5608 Penick Dr	l.paulson@charline.com
3		DONALD M. STEWART	5608 PENICK DR	dsharley02@hotmail.com
4		LEM SHEFFIELD	5606 PENICK DR	(512) 553-4181
5		DAVID BRECKIN	5604 PENICK DR	dbreckin@charline.com
6		John Tschirhart	5604 Penick Dr	512.734.3048
7		Billie Conn	5602 Penick Dr	512.632.2743
8		MARJORIE DORMAN	5700 Penick Dr	512.613.6982
9		Lori Dorman	5700 Penick Dr	512.613.6941
10		Andrew L. G. Gorman	5701 Penick Dr	512.657.3931
11		STAN WEBER	5702 Penick Dr	512.741
12		STAN WEBER	5702 Penick Dr	512.743.2832
13				

R 11/7/2014



Case Number:

**C14-2014-0159****PETITION**

Date: 11/19/2014

Total Square Footage of Buffer: 390107.7758

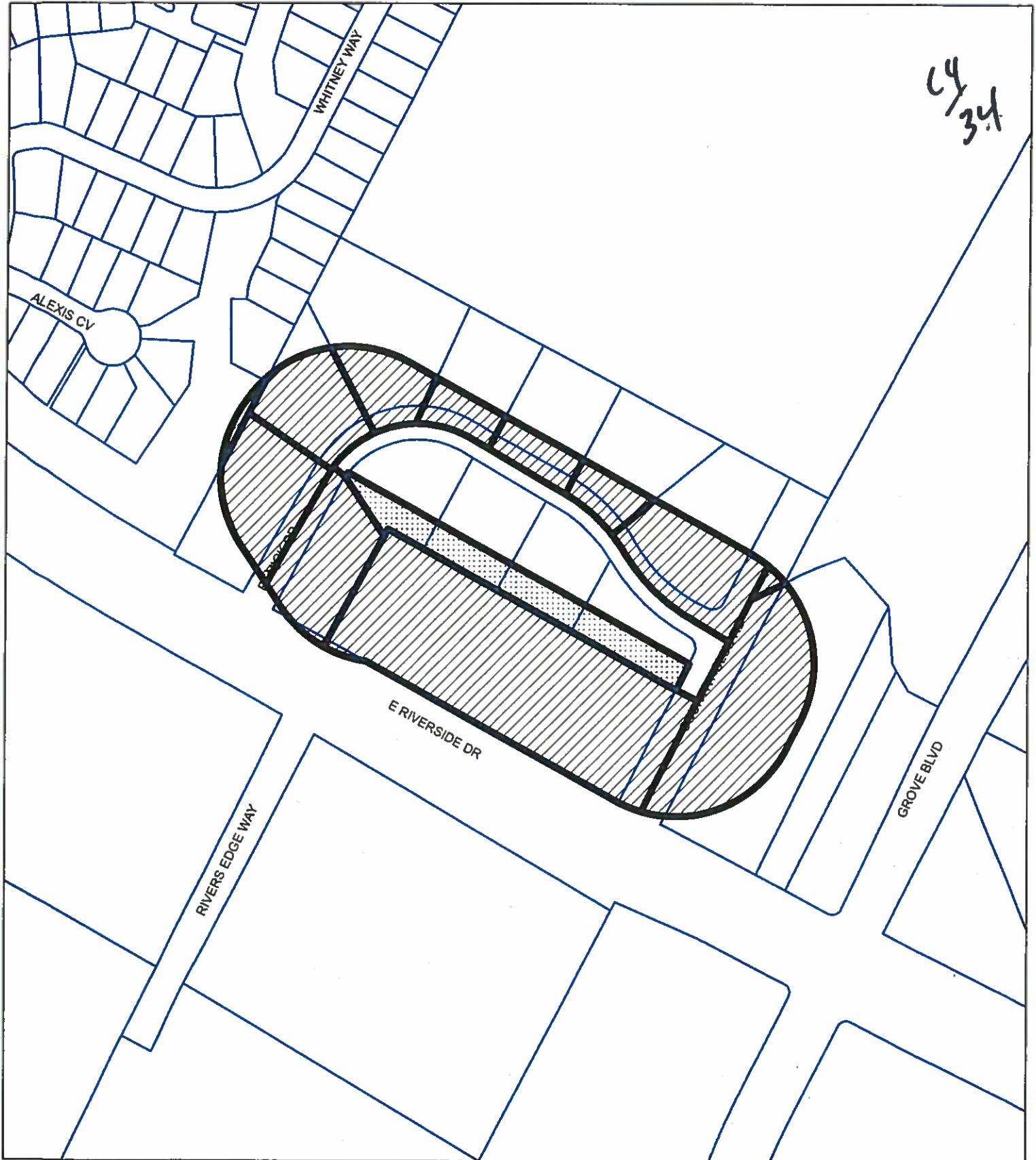
Percentage of Square Footage Owned by Petitioners Within Buffer: 27.43%

Calculation: The total square footage is calculated by taking the sum of the area of all TCAD Parcels with valid signatures including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200 foot buffer are not used for calculation. When a parcel intersects the edge of the buffer, only the portion of the parcel that falls within the buffer is used. The area of the buffer does not include the subject tract.

TCAD ID	Address	Owner	Signature	Petition Area	Percent
0306120107	5604 PENICK DR 78741	ALLISON DAVID BRYCE	yes	21974.31	5.63%
0306120112	5602 PENICK DR 78741	CASSIS WILLIAM C	yes	26389.12	6.76%
0307130105	GROVE BLVD 78741	CITY OF AUSTIN ATTN: REAL ESTATE SERVICES DIVISION	no	1141.69	0.00%
0306120325	1723 WHITNEY WAY 78741	DECKER LAURA	no	13.81	0.00%
0306120104	5700 PENICK DR 78741	DODSON LUKE	yes	8489.99	2.18%
0306120449	FARO DR 78741	GARDENHOME OWNERS ASSOC INC % DAVID B EDELMAN CO	no	1687.98	0.00%
0306120208	5600 E RIVERSIDE DR 78741	GREIF YOUNT PARTNERSHIP % BILL GREIF	no	27734.87	0.00%
0306120213	5700 E RIVERSIDE DR 78741	GREIF YOUNT PARTNERSHIP % BILL GREIF	no	114210.58	0.00%
0306120102	5704 PENICK DR 78741	GRONQUIST SOPHIE M LIFE ESTATE	yes	28720.55	7.36%
0306120105	5608 PENICK DR 78741	STEWART DONALD M & LINDA G PAU LINDA G PAULSON	yes	7764.58	1.99%
0306120106	5606 PENICK DR 78741	TSCHIRHART JOHN W	yes	13683.55	3.51%
0306120103	5702 PENICK DR 78741	WEBER STANLEY EVAN & WAYNE GRONQUIST LIVING TRUST	no	8022.92	0.00%
0307130104	GROVE BLVD 78741	YOUNT LARRY K ETAL	no	53545.14	0.00%
<b>Total</b>				<b>313379.09</b>	<b>27.43%</b>




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N



-  BUFFER
-  PROPERTY\_OWNER
-  SUBJECT\_TRACT

## PETITION

CASE#: C14-2014-0159

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



1" = 200'

**Exhibit P - 4 CTM Eligible Area Map**



# City of Austin

Founded by Congress, Republic of Texas, 1839  
Planning Development and Review Department  
Urban Design Division  
One Texas Center, 505 Barton Springs Road  
P.O. Box 1088, Austin, Texas 78767

CH  
1/35

November 18, 2014

RE: Case number: C8-2014-0206.0A

Dear Property Owner,

As you know a request for rezoning has been submitted for a strip of the property along East Riverside Drive south of Penick Drive (Case # C8-2014-0206.0A). Recently we met with a few of the property owners where we talked about compatibility. At the time, it was thought that the currently zoned SF-1 properties south of Penick Drive would trigger compatibility. With the adoption of the East Riverside Corridor Regulating Plan compatibility is triggered by use, not zoning, as is the case under Subchapter E. As the adjacent property is currently vacant staff has now determined that compatibility would not be triggered. However, compatibility would be triggered by the single family homes on the north and west side of Penick Drive. This means that compatibility would start at the property line of those homes, not at the property line of the SF-1 zoned property. Please let us know if you would like to meet about this issue prior to the Planning Commission meeting.

Please feel free to call or email myself or Lee Heckman on this matter.

Sincerely,

Tonya Swartzendruber  
Planning and Development Review  
[tonya.swartzendruber@austintexas.gov](mailto:tonya.swartzendruber@austintexas.gov)  
512-974-3462

Lee Heckman  
Planning and Development Review  
[lee.heckman@austintexas.gov](mailto:lee.heckman@austintexas.gov)  
512-974-7604

## Rhoades, Wendy

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**From:** Rhoades, Wendy  
**Sent:** Wednesday, December 31, 2014 12:15 PM  
**To:** 'Trey and Lucy'  
**Subject:** RE: Important clarification on compatibility, especially as it applies to Case: C14-2014-0159 scheduled for January 13th, PC hearing

C4  
36

Dear Ms. Sheffield,

Thank you for your email. Jerry Rusthoven and I will discuss the concerns outlined below with Tonya Swartzendruber after she returns to the office next Tuesday, and provide a response as soon as possible. Thank you for your patience.

Wendy

**From:** austinrealestatecouple@gmail.com [mailto:austinrealestatecouple@gmail.com] **On Behalf Of** Trey and Lucy  
**Sent:** Tuesday, December 30, 2014 12:37 PM  
**To:** Rhoades, Wendy; Rusthoven, Jerry; Swartzendruber, Tonya; Chimenti, Danette - BC; Hernandez, Alfonso - BC; Stevens, Jean - BC; Oliver, Stephen - BC; Hatfield, Richard - BC; Jack, Jeff - BC; Nortey, James - BC; Roark, Brian - BC; Varghese, Lesley - BC; Zaragoza, Nuria - BC  
**Cc:** billy Cassis; Bryce Allison; Rachael Anne Chambers; Don Stewart; Linda Paulson; Luke Dodson; Miranda Dodson; Eran; Trey & Lucy Sheffield; Malcolm Yeatts; Toni; Jan Long  
**Subject:** Re: Important clarification on compatibility, especially as it applies to Case: C14-2014-0159 scheduled for January 13th, PC hearing

I'm resending this email due to holidays and concern of getting through.

On Tue, Dec 23, 2014 at 5:01 PM, Trey and Lucy <[TreyandLucy@sheffieldproperties.biz](mailto:TreyandLucy@sheffieldproperties.biz)> wrote:  
Dear staff and planning commission,  
In lieu of Lee Heckman's resignation, I am addressing this question to all staff in prior correspondence and the planning commission

The hope is to clarify the accuracy and ramifications of a letter sent by Lee and Tonya well before the cases hearing on January 13th, 2015.  
The letter is attached entitled "Compatibility in the ERC"

The letter states that Subchapter E has a definition of triggering property at zoning and the ERC Adopted plan states triggering is by use. I do not believe this to be true and even the applicant's agent had not heard of this. I am waiting, going on more than 2 weeks, for answers from applicant's agent, regarding need/purpose of additional 45', where's the car access, etc. He is working on a "better" "conceptual" plan, but also this new translation of compatibility, I suspect, is sending them back to the drawing board for other reasons.

I contend that both the Subchapter E AND the ERC adopted plan do not clearly support the letter. In reading the Subchapter E, I do not see clear reference to use nor zoning to apply compatibility standards, in fact, it

doesn't even have the term "triggering property" in it. The ERC Adopted Plan does not have a definition for "triggering property." I think it common sense that property is to mean land and improvements...not just improvements thus whether a building is on the or not, compatibility applies. It is a loophole and semantic that is being used to confuse a relatively simple matter.

I intend to research what I can, but hope that staff and planning commission (even city council) would do due diligence on this matter.

The ERC Adopted Plan gave the owner NMU on another vacant single family lot AND one of the other single family lots in our 1940's historic subdivision...It would be salt in the wound to grant him another 45'; in fact, it's salt in the wound even if the compatibility standards apply.

If there

is insistence on  
no compatibility  
standard

because land is vacant, it

1. conflicts with dialogue transcribed in a city council work session on 5/7/2013...coincidentally about this exact area for this case: Penick Drive;

2. certainly means the application can be denied/change staff recommendation as I'm certain the request for 45' has to do with added height. If no compatibility, applicant/unknown future owner has carte blanche to build at max height the entire length of the property. (see pics attached.)

I've attached other items of interest.

I've attached other material I have been working on to help with assessing the application.

1. A 2005 email between applicant and Penick owners which shows the compromise at that time. This was a gentleman's agreement in legal terms, but the applicant knows its legitimacy as well as city staff from the time. The ERC Adopted Plan started to overturn that agreement (unknowingly) and make ALL the single family lots NMU. The city council ended up amending the ERC Adopted Plan to leave four of the five single family and capture one of the existing homes/lots into the ERC.

2. Attached are sketches of a building with noted height differences as well as surrounding properties that do not and will not have mixed use despite being zoned mixed use. There is already ample density here with affordable housing project, free standing condos on smaller "lot" sized, garden homes, civic uses, commercial buildings, town homes and condos.

Any additional 45' is not going to improve the density that the applicant has already been granted.

Please not only oppose the applicant's request for new zoning but also amend the ERC adopted plan by removing the loophole of common sense definition of triggering property. It's clear the heart and the intent of the compatibility was not to split hairs on use vs zoning.

Thank you for your service and warmest wishes during the holidays.

Respectfully,

Lucy Sheffield

512-78-3048

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A  
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X

February 10, 2005

Sonya Lopez  
City of Austin Neighborhood Planning & Zoning

4/38

On January 19, 2005, the Penick Neighborhood Association met at the home of Ray McDermott to discuss zoning changes that are being proposed for a development plan on Tracts 63 & 76 in the Pleasant Valley Planning Area. The plan was presented by the landowner/proposed developer, Bill Greif of the Greif/Yount Partnership. This plan calls for retail development along the frontage of 5600-5700 East Riverside Dr. on both tracts and would require a zoning change of said frontage portion of Tract 76 from SF-3 to LR-MU.

Additionally, this plan shows a residential development behind the retail element as a requirement of the plan in order to be reflective of the existing neighborhood. The single family lots will benefit from a minor zoning change from SF-3 to a SF-1. (see attached architectural drawing.)

Also discussed at this meeting were the obligatory terms, conditions and additional details contingent to this specific plan and its proposed zoning changes. These conditions offer equitable guaranties to adjacent property owners, the proposed developer/landowner and the community as a whole in order to preserve & improve the quality of life, grow the neighborhood in a way that is aligned with the City of Austin's planning vision and ensure a development that offers sustainable services and dynamic contributions to the area without jeopardizing the integrity or the potential of the existing area.

Unanimously, all present at this meeting approved Bill Greif's proposed development plan contingent upon the fulfillment of the following:

These terms are defined below in 7 categories:

1) Conditional Overlays proposed through a zoning classification of LR-MU. The Planning Commission's summary of recommendations for compatible zoning use and recommendations of conditional overlays from comparable developments will be used as a basis for a formal listing of conditional overlays.

2) Easement definitions, positive treatments of transitions between zoning elements and land use. (i.e. 25 ft. easement between land uses, 25 ft. traffic easement, required submission of variance form for 8 ft. high dividing wall between land uses. Wall specifications that satisfy sound and traffic abatement standards and adequately screen the commercial element from the single family homes. Thoughtful tree and shrub installations. Commercial stock plantings discouraged.

3) Penick Place Restrictive Covenants (i.e. minimum sq. ft. of residential units-1900 sq.ft total footprint), individual lot layouts and size parameters, architectural design requirements; i.e. maximum height restriction, buildings and lots footprint/location per plan to be oriented for maximum efficiency/utilization of directional patterns of the sun and wind, energy star rating compliances and incentives, stormwater management requirements for maintenance and improvement of Country Club Creek



watershed , list of building materials not permitted, landscape installations appropriately planned and chosen native species. etc. etc. Listing of prohibited services or specific businesses.

No inquiries or suggestions have been made to the neighborhoods restrictive covenants. These items are not at this time complete for listing in this document.

4)Traffic Impact Analysis and an accompanying proposal to provide adequate visibility for the safe ingress and egress of motorists, cyclists and pedestrians. Future impact of T.O.D. proposals or other traffic corridor-related issues. Listing of setback distances for buildings and parking areas to ensure adequate site lines and visibility.

5)Vehicular and pedestrian service access to the rear of existing residences by Country Club Dr. and specifications for a cul-de-sac appropriately sized to accommodate emergency vehicles, trucks, R.V.s and other service vehicles if Country Club Dr. is vacated as a result of the development plan.

6)The specific identification of the Developer(s). the neighborhood assoc. endorses this development plan based on the inference that Greif/Yant Partnership is the named developer and plan to carry out this development through these design and use guidelines presented by the neighborhood association of the Harvey Penick subdivision. The neighborhood and adjacent land owners can not tolerate the threat of loss of investment value through an arbitrary sale or the brokerage of tracts to outside interests that lead to developments with incompatible zoning use or services that infringe on existing land use and value. (turning the planning process into a big waste of time.)

7) A long range sustainability plan for the proposed development and built footprint (i.e. Is it capable of adapting as the neighborhood area's needs change? Whether market-driven, socially driven or through municipal changes, adaptability to those needs are considerations that are necessitated at this, the planning stage. Flexibility in building systems and what services they can support are vital for long term success and pertinence in a community. A business plan or economic study is encouraged for submission as it reassures city planners and residents of viable development potential and offers dialogue and opportunities to improve development quality through plan refinements.

The following persons present at the meeting have read this document and agree with the plan offered by the Greif/Yount partnership contingent on the above conditions and terms.

14/39

Rhoades, Wendy

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**From:** austinrealestatecouple@gmail.com on behalf of Trey and Lucy  
<TreyandLucy@SheffieldProperties.Biz>  
**Sent:** Thursday, January 22, 2015 12:39 PM  
**To:** Swartzendruber, Tonya; Rhoades, Wendy; Rusthoven, Jerry  
**Cc:** Chimenti, Danette - BC; Hernandez, Alfonso - BC; Stevens, Jean - BC; Oliver, Stephen - BC; Hatfield, Richard - BC; Jack, Jeff - BC; Nortey, James - BC; Roark, Brian - BC; Varghese, Lesley - BC; Zaragoza, Nuria - BC; billy Cassis; Bryce Allison; Rachael Anne Chambers; Don Stewart; Linda Paulson; Miranda Dodson; Luke Dodson; Eran; Malcolm Yeatts; Toni; Jan Long  
**Subject:** C14-2014-0159 Penick rezoning case  
**Attachments:** CONCEPTUAL PLAN 2.pdf

W  
/40

Hello City Staff and Planning Commission,

We are meeting with Ron Thrower, agent for owner of property requesting rezoning request.

We are still opposed and still see no grounds for compromise; there are still questions that are left unanswered.

***\* Is it correct that the lack of single family structures on single family zoned properties means the owner need not stagger commercial? (AWAITING ANSWER FROM THE CITY) Please provide this answer today before our meeting with Mr. Thrower this evening, if possible.***

We are meeting with Mr. Thrower as he has provided a new conceptual plan. Some of my questions will be why 45' is necessary other than to push for a 4th concession to his sole advantage in a span of less than 10 years.

**1st Greif Concession:** residences conceded to light retail in exchange for 5 Penick bordering single family lots...this agreement he is now violating.

**2nd Greif Concession:** (HUGE CONCESSION BY THE CITY) 1 of the 5 single family lots from 2005 agreement changed to NMU and his commercial lot from LR to NMU, eligibility for a development bonus, plus an existing SF lot with a home on Penick was changed to NMU. This increased his height and usage by way more than 25% in several areas.

**3rd Greif Reward:** not having to stagger from single family lot line and likely no standard building line easement. (confirmation on this still needed-but based on conceptual plan applicant seems to believe it to be true.)

**4th Greif Reward:** Despite his property density and options increasing 2 fold since working with the Penick residences, he still asks for another 45' from the single family lots...allowing more incompatible structure than already been permitted, and by their own conceptual drawing, shows a severe building restriction because they intend to divide the last 4 single family lots from the 2005 agreement to 5 lots.

I cannot express the disappointment in having to defend a clearly obvious disregard by the owner to consider the good will of the residences, the community as a whole and the history of the street that he once touted as important to him. This case is much more personal for the residences because of the history. This is not a case where the residences are blindly fighting increased taxes, devaluation...but a true look at the history shows a specific and direct bullying, unintentional by city, but being capitalized upon by the owner.

Please do not approve the 45' zoning change, whittling the SF1 lots. The applicant is open about changing the 4 lots to 5. It is predictable by the conceptual plan that 5 lots made from the 4 with a reduction of the 45' in the

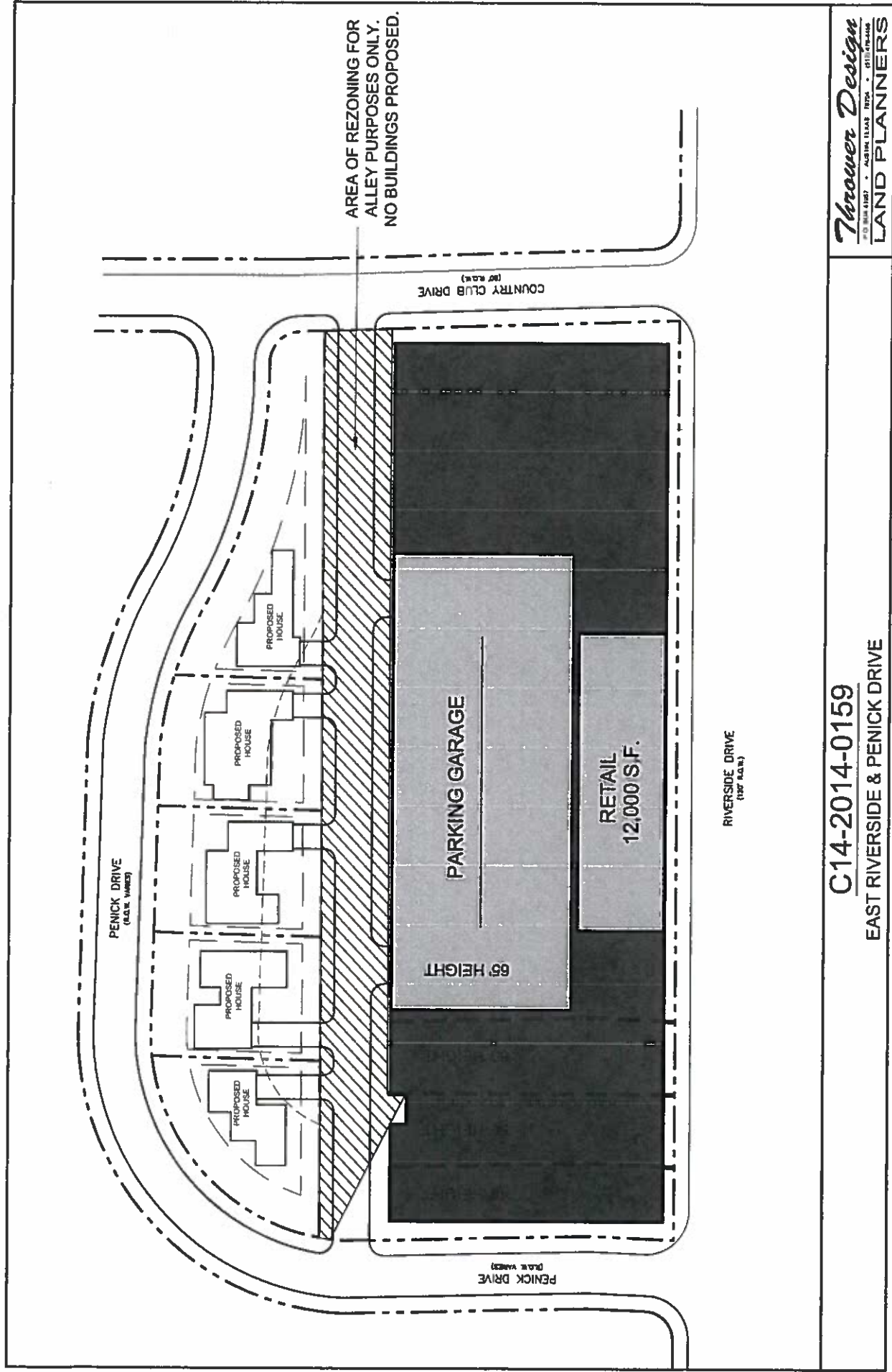


rear, will render any reflective SF construction impossible. Who would build odd shaped, single family homes with no yard, weird access PLUS hovered by a 65' building? Originally the applicant presented the residences with this monstrous plan that included town homes aligning the Penick. I believe that is the intention and should be considered in disapproving the 45' rezoning as there is no commitment by the applicant nor future owner to adhere to this conceptual plan and past agreements exist broken. Please support the residences in Mr. Greif accepting AS IS the advantages and his options to build/develop NMU as his property already has and as more than the neighborhood needs. There is no advantage to the city, community nor the residences, only the applicant, for another 45' of NMU; and granting it will certainly lead to future David vs Goliath cases between the 7 residences and the owner, future owner, and the city.

Imploringly and respectfully,

Lucy Sheffield

A handwritten signature in black ink, appearing to be 'LS' or 'LJ', located in the upper right corner of the page.



C14-2014-0159  
EAST RIVERSIDE & PENICK DRIVE

Thruway Design  
2100 S. 10th St. - Suite 100 - Phoenix, AZ 85042  
LAND PLANNERS

C4  
1/22

## Rhoades, Wendy

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**From:** Ron Thrower <ront@throwerdesign.com>  
**Sent:** Tuesday, February 03, 2015 5:16 PM  
**To:** Rhoades, Wendy; Trey and Lucy (TreyandLucy@SheffieldProperties.Biz)  
**Subject:** RE: Penick  
**Attachments:** 15-0119 Base EXHIBIT.PDF

4/43

Wendy,

In the attached plan you will note that there is so little frontage on Penick that is to be rezoned and the drawn alley does not touch right-of-way within the rezoned area.

## Ron Thrower

*Thrower Design*

510 South Congress Avenue, Suite 207  
Mail: P.O. Box 41957  
Austin, Texas 78704  
512-476-4456 office

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**From:** Rhoades, Wendy [<mailto:Wendy.Rhoades@austintexas.gov>]  
**Sent:** Tuesday, February 03, 2015 5:13 PM  
**To:** Ron Thrower; Trey and Lucy ([TreyandLucy@SheffieldProperties.Biz](mailto:TreyandLucy@SheffieldProperties.Biz))  
**Subject:** RE: Penick

Ron,

In reviewing the list below, I believe #1 and #7 could be accomplished through a Conditional Overlay, but since changes to ERC zoning are new for all of us, I'll need to check with our Law Department. At this time, Staff is still considering the Applicant's request and we have not yet finalized our recommendation.

Wendy

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**From:** Ron Thrower [<mailto:ront@throwerdesign.com>]  
**Sent:** Tuesday, February 03, 2015 2:31 PM  
**To:** Trey and Lucy ([TreyandLucy@SheffieldProperties.Biz](mailto:TreyandLucy@SheffieldProperties.Biz))  
**Cc:** Rhoades, Wendy  
**Subject:** Penick

Lucy,

I've met with Greif about the conditions we talked about. He is in agreement with all and itemized below:

- 1) No buildings to be constructed in the area of rezoning.
- 2) Green screen wall on north side of garage.
- 3) Trees in the alley at 40' spacing in areas where green screen is not in place.
- 4) Trees along south side of Penick.

- 5) Stepback in the building for a 40' height limit for a distance of 40' as measured from the newly created alley.
- 6) SF residential development will have access to the alley.
- 7) Alley to be emergency access only at Penick. *can be a CO*
- 8) Commercial / multifamily development will have an entrance / exit to E. Riverside Drive as well as the alley to Country Club Drive.
- 9) Only 4 residential lots will remain along Penick Drive with the Amended Plat.

*CH  
/ 44*

It took a lot of discussion to get him to this point. Wendy can double check me on these matters, but I believe the only item that could go in a Conditional Overlay with the zoning is #1 above. All other items would need to be in a Private Restrictive Covenant as these are conditions that are not within the area of rezoning and do not pertain to the rezoning itself. As such, Greif will ultimately prepare the RC for your consideration. I suspect the timing will be Planning Commission on the 10<sup>th</sup>. First Reading and public hearing at Council perhaps March 12<sup>th</sup> provided that we are not asked to go to the new subcommittee that council has set up. Then RC is prepared, reviewed, and executed which will be held in trust with City staff. Neighborhood withdraws their petition. Second and Third Readings at City Council – April some time.

Please let me know if you have any questions or if you would like to meet again to discuss these and other items.

I've copied Wendy Rhoades, City Case Manager, with this email.

## Ron Thrower

*Thrower Design*

510 South Congress Avenue, Suite 207

Mail: P.O. Box 41957

Austin, Texas 78704

512-476-4456 office

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